

**USA GYMNASTICS**

# **Safe Sport Investigation & Resolution Procedures**

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USA Gymnastics may update its Safe Sport Procedures at any time. Unless otherwise stated, changes are effective immediately upon publication. **The Safe Sport Procedures** can be found at [www.usagym.org/safesport](http://www.usagym.org/safesport).



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# USA Gymnastics Safe Sport Investigation and Resolution Procedures

The USA Gymnastics Safe Sport Investigation and Resolution Procedures (“the Procedures”) establish the process that the organization will use to receive, investigate and resolve reports of misconduct (the “Safe Sport process”) that violates the USA Gymnastics Safe Sport Policy (the “Policy”). The Procedures apply to any matter under the jurisdiction of USA Gymnastics involving the Policy, the SafeSport Code for the U.S. Olympic and Paralympic Movements (the “Code”) or any comparable matter as permitted under USA Gymnastics bylaws (the “Bylaws”). The Procedures also will be used as guidance for reports of USA Gymnastics Code of Ethical Conduct violations that involve participant safety. The Procedures do not apply to matters over which the U.S. Center for SafeSport (the “Center”) has exercised jurisdiction.

Unless otherwise defined in these Procedures, all capitalized words in these Procedures have the meanings stated in the glossary of the USA Gymnastics SafeSport Policy.

## I. Governance and Authority

- A. USA Gymnastics must follow all governing policies, procedures, and applicable laws. This includes, without limitation, the Policy, the Code, other governance documents from the Center, the Bylaws, applicable portions of the United States Olympic Committee’s (“USOC”) bylaws, the Ted Stevens Olympic and Amateur Sports Act (36 U.S.C. Sec. 220501 et seq), and the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017.
- B. Bylaws 9 and 10 define the formal Complaint and resolution process.
- C. These Procedures do not prevent any Member Club or Member from adopting higher safety standards or any person from exercising their legal rights to participate safely. The Procedures also do not prohibit any Club or Member from making any lawful employment-related decisions before the conclusion of any process outlined in these Procedures.

## II. U.S. Center for SafeSport’s Jurisdiction

- A. The Code defines the Center’s “exclusive” and “discretionary” jurisdiction. USA Gymnastics will report to the Center all matters within the Center’s exclusive jurisdiction, which includes, without

limitation, matters involving child abuse and Sexual Misconduct. USA Gymnastics reserves the right to refer to the Center any matter within the Center’s discretionary jurisdiction.

1. USA Gymnastics will not investigate or resolve misconduct over which the Center exercises exclusive or discretionary jurisdiction.
- B. USA Gymnastics and its Member Clubs must enforce and comply with any suspension, restrictive measures, or other sanctions imposed by the Center, including those originating from conduct in other amateur sports.
- C. Appeals of any matter under the Center’s jurisdiction must be appealed directly to the Center.
- D. USA Gymnastics reserves all other rights and remedies, including but not limited to the right to set membership criteria and the right to impose appropriate measures, including without limitation Interim Measures.

## III. Confidentiality

- A. The Bylaws, the Policy, and the Code provide some protections for confidentiality during the Safe Sport process, but they do not, and cannot, guarantee absolute confidentiality. USA Gymnastics may be required to disclose information contained in a report or learned during an investigation. Reasons for disclosure include, but are not limited to, the following:
  1. Relevant state and/or federal law;
  2. Mandatory reporting related to child abuse and sexual misconduct;
  3. The Center’s jurisdiction; or
  4. USA Gymnastics’ right, as allowed by the Code, to publicly correct any misrepresentation related to the Safe Sport process.
- B. Relevant state and federal laws may also impose either confidentiality or disclosure requirements on the parties. Each party to the Safe Sport process is responsible for understanding what legal requirements, if any, apply to their conduct.

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## IV. Abuse of Process

- A. USA Gymnastics will pursue “permanent ineligibility” status for any person who directly, or through a representative or agent, engages in Abuse of Process or Retaliation under the Code or the Policy. Conduct that constitutes Abuse of Process or Retaliation includes, but is not limited to, the following:
1. Public disclosure of personal or identifying information related to a Complainant or Claimant;
  2. Harassment;
  3. Intimidation;
  4. Attempts to discourage participation in the USA Gymnastics or Center investigation and resolution process.
  5. Intentional filing of false allegations.

## V. Submission and Review of Complaints and Reports

- A. USA Gymnastics will review information submitted under either the formal or informal protocol, as set forth below, to determine:
1. if the conduct reported is appropriate for resolution through the Safe Sport process;
  2. if any information must be reported as child abuse;
  3. if the Center has exclusive jurisdiction over the matter;
  4. If there are grounds to consider the Center’s discretionary jurisdiction (such as conflict or relation to a pending case);
  5. if Interim Measures are appropriate;
  6. if the submission meets necessary Bylaws and governance criteria; and
  7. if any other factors are relevant to an informed decision.

### B. Formal Protocol – filing a Complaint

1. A Complaint begins the resolution process under Bylaw 10. Any athlete (current or former), athlete representative, or current member may file a Complaint.
2. The document must be designated as a “Complaint” and meet all necessary criteria of the Bylaws, including Bylaws 10.2 and 10.3.
3. USA Gymnastics will review the Complaint for compliance with the Bylaws, including Bylaws 10.2, 10.3, and 10.4. If the Complaint complies with the Bylaws, USA Gymnastics will proceed with the Complaint resolution process detailed in Bylaw 10.
4. USA Gymnastics must provide a copy of the Complaint to the Adverse Party to begin the Bylaw 10 resolution process.

### C. Informal Protocol – making a Report

1. Any person—including without limitation athletes, members, and non-members—may make a report of misconduct to USA Gymnastics.
2. A “Report” is any notice of misconduct other than a formal Complaint.
3. Reports are not subject to the same formal requirements as Complaints. For example, the Bylaws do not require that Reports be sent to an Adverse Party to begin the resolution process. Additionally, to the extent allowed by law and governing policy, each Report will be treated as a confidential submission.
4. USA Gymnastics Safe Sport Department will review all Reports to determine, in its discretion, the appropriate next steps in response to a Report. For example, USA Gymnastics may determine that a Report should be assigned to an investigator for further investigation.
5. If the information contained in a Report or learned through an investigation meets the requirements of the Bylaws, including Bylaws 10.2, 10.3, and 10.4, USA Gymnastics may file a Complaint on behalf of the reporting party. A Complaint filed by USA Gymnastics will proceed under the Bylaw 10 resolution procedures.

### D. Matters Outside Bylaw 10 Resolution

1. Prevention Policy Procedure
  - a. All reported Prevention Policy violations will be reported to the Center and to the relevant member club.
  - b. USA Gymnastics, in its discretion, may allow Reports of isolated violations of the Prevention Policies to be resolved informally by the member club. Any informal resolution by the member club must include notice to the family of the affected minor athlete.
  - c. USA Gymnastics, in its discretion, may file a Complaint or take other action based on any Report that USA Gymnastics does not believe is appropriate for informal resolution by the member club. For example, USA Gymnastics may choose to file a Complaint based on Reports of multiple and/or severe Prevention Policy violations. Notice will be given to the parents of any affected minor athlete prior to submitting a Complaint based on a Report.
2. Financial, contractual, tortious matters unrelated to the Policy, and employment matters are not appropriate for the Bylaw 10 resolution process.



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## VI. Bylaw 10 Resolution Processes

### A. Bylaw 10 Notice of Complaint

1. USA Gymnastics will draft a written Notice of Complaint as required by Bylaw 10.4 that will include:
  - a. a summary or statement of the behavior reported as misconduct;
  - b. reference to the relevant standard of conduct representing the grounds for the Complaint; and
  - c. notice to the relevant member club(s).
2. USA Gymnastics may modify the Notice of Complaint or Complaint at any time; provided however, a modification made after the commencement of a hearing must be approved by the Hearing Panel.

### B. Bylaw 10 Investigation

1. USA Gymnastics will appoint an investigator who is not involved with the conduct reported in the Complaint (the "Investigator").
2. The Investigator will gather information and prepare a written summary for USA Gymnastics.
3. All information gathered, and any written summary prepared by the Investigator, is confidential and privileged work product of USA Gymnastics. Disclosure of information necessary under the Bylaw 10 resolution process is not a subject matter waiver of any privilege.
4. USA Gymnastics will review the Investigator's written summary and any other information that USA Gymnastics deems appropriate in its reasonable discretion.
5. After its review, USA Gymnastics will determine, in its discretion, whether the matter is appropriate for resolution by a Hearing Panel, by dismissal, or by a negotiated agreement.

### C. Resolution of a Complaint other than by Hearing Panel

1. A hearing may not be necessary on every Complaint, and USA Gymnastics may pursue an agreed-upon resolution with the Adverse Party or dismissal of the Complaint.
2. Any agreed-upon resolution between USA Gymnastics and an Adverse Party must:
  - a. be in writing signed by the Adverse Party and USA Gymnastics or their authorized representatives; and
  - b. not restrict, limit or impede the existing rights of the persons witnessing, reporting or harmed by prohibited conduct, misconduct, abuse or unethical conduct.

3. USA Gymnastics will give notice to, and consult with, each person reportedly harmed by the misconduct before USA Gymnastics enters into the agreed-upon resolution.
4. USA Gymnastics may provide notice of the agreed-upon resolution to witnesses.

### D. Resolution of a Complaint by Hearing Panel

1. The Bylaws and the Ethics and Grievance Committee govern a Hearing Panel's procedures.
2. Right to a Hearing and Notice of Hearing
  - a. In all cases where USA Gymnastics has brought the Complaint, the Adverse Party has a right to a hearing, as required by Bylaw 10.
  - b. An Adverse Party has a right to fair notice and an opportunity for a hearing before being declared ineligible to participate in any amateur sporting event that is sanctioned by USA Gymnastics.
  - d. The reporting party, Adverse Party, relevant Member Club(s), and person(s) affected by the reported misconduct will receive notice of the intent to proceed to a hearing.
3. Standards for the Hearing
  - a. A violation of the Policy or of USA Gymnastics Code of Ethical Conduct must be proven by a "preponderance of the evidence," meaning that it is more likely than not (greater than 50% likelihood) that the allegations are true.
  - b. If a Hearing Panel finds that an individual violated the Policy or Code of Ethical Conduct, the Hearing Panel may impose any term, limitation, restrictions and/or any "Disciplinary Affect" described in Bylaw Article 10.13.
  - c. USA Gymnastics agrees to submit to binding arbitration in accordance with the Ted Stevens Olympic and Amateur Sports Act. This is the sole method to appeal any finding by a Hearing Panel under Bylaw 10.
  - d. Every member is entitled to a fair hearing based on the following principles:
    - i. proper notice of the hearing;
    - ii. an impartial Hearing Panel;
    - iii. an opportunity, before the hearing, to review the information that will be submitted to the Hearing Panel;
    - iv. a reasonable opportunity for the Adverse Party to participate in the Hearing and present his or her case;
    - v. notice of possible disciplinary results for an adverse finding;
    - vi. the opportunity to have chosen counsel participate in the Hearing.

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4. Hearing Procedures
  - a. Hearings shall be conducted in a manner consistent with Bylaw Article 10 and any requirements of the Ethics and Grievance Committee.
  - b. All proceedings conducted by the Hearing Panel shall be kept confidential by the parties and participants, subject to applicable laws, the Code, and the publication allowed by Bylaw 10.14.
  - c. A Hearing Panel chair will be appointed in a manner determined by the Ethics and Grievance Committee.
  - d. The chair of the Hearing Panel shall set the time and place for the hearing and communicate the hearing schedule to the parties.
  - e. Hearings may be held by telephone, video conference, or similar electronic format.
  - f. Any party requesting an in-person hearing will be responsible for the travel costs of the Hearing Panel.
  - g. Each party has the right to record or transcribe the hearing, subject to the confidentiality and other requirements of Bylaw 10.11 and of these Procedures. Any party who intends to record or transcribe the hearing must give written notice to all other parties. The Hearing Panel may limit the number of recordings or transcriptions allowed at a hearing.
  - h. The Hearing Panel will approve hearing procedures that, at a minimum, establish a schedule and discovery guidelines.
  - i. Before the Hearing, the Complainant must provide the parties with the following:
    - i. a copy of the Complaint;
    - ii. any written response to the Complaint provided to the Complainant or to USA Gymnastics by the Adverse Party; and
    - iii. any documents upon which the Complainant will rely during the presentation of its case.
  - j. USA Gymnastics is a party to all proceedings. This includes proceedings where an individual, and not USA Gymnastics, is the Complainant.
5. Evidence and Discovery
  - a. The Hearing Panel shall make all evidentiary and procedural decisions, including without limitation decisions regarding the admissibility, relevance, and materiality of offered evidence.
  - b. All testimony must be taken under oath.
  - c. No party is obligated to produce all materials in their possession. However, the Hearing Panel may request, or may allow a party to request, relevant materials from a party that are not currently before the Hearing Panel. All discovery allowed by the Hearing Panel shall be proportional to the matter at hand.
6. The Hearing Panel's Decision
  - a. The Complainant bears the burden of proof by a preponderance of the evidence. The Hearing Panel determines if the Complainant has met this burden of proof.
  - b. The Hearing Panel may consider any evidence submitted during or after the hearing, to the extent allowed by the Bylaws or these Procedures.
  - c. The Hearing Panel must issue a written decision on the hearing in a timely manner. The written decision must contain, at a minimum, all of the following:
    - i. the rules or policies the Hearing Panel believes were violated, if any;
    - ii. the facts that support the decision;
    - iii. the sanctions that the Hearing Panel concludes are necessary, if any; and
    - iv. the decision of the Hearing Panel.
7. Factors for the Hearing Panel's Deliberation. The Hearing Panel may consider all relevant factors, including the following, to the extent that each applies to the facts and circumstances of the case:
  - a. the interests of USA Gymnastics and the applicable member club in promoting a safe environment for participants;
  - b. the seriousness of the act of misconduct;
  - c. the age and/or experience of the accused individual when the misconduct occurred;
  - d. the age of the person(s) who suffered the misconduct;
  - e. the impact upon the person(s) who suffered the misconduct;
  - f. information deemed relevant to rehabilitation;
  - g. the person's fitness for continued participation in USA Gymnastics events and/or membership;
  - h. any other information that the Hearing Panel determines relevant to the appropriate sanction, including any other factor proposed by the Bylaws;
  - i. suspensions and permanent ineligibility may be instituted at the Hearing Panel's discretion.

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## VII. Interim Measures

### A. Standards and Procedures for Interim Measures

1. Article 10.5 of the USA Gymnastics Bylaws grants USA Gymnastics the authority to impose Interim Measures to:
  - a. ensure the safety and well-being of the gymnastics community;
  - b. prevent conduct or participation detrimental to the sport, its reputation; and/or
  - c. limit or monitor the conduct of a Member subject to a pending Complaint.
2. USA Gymnastics will institute Interim Measures when an individual's continued membership, participation or attendance poses a risk of ongoing physical or emotional harm to the community or any of its members.
3. Any Interim Measure that prohibits a member's participation in an amateur athletic competition sanctioned by USA Gymnastics is subject to review by a Hearing Panel.
4. USA Gymnastics will publicly disclose Interim Measures that restrict membership (e.g., suspensions and no contact directives), including the name of the person on whom the interim measure is imposed and the restriction imposed, unless such disclosure is otherwise prohibited by law. USA Gymnastics may also disclose the nature of the conduct underlying the interim measure.
5. If USA Gymnastics determines, in its reasonable discretion, that an emergency involving an imminent threat of harm exists, then USA Gymnastics may impose immediate suspension without advance notice. Circumstances involving an imminent threat of harm include, without limitation, the following:
  - a. criminal activity, including formal charges or a confirmed investigation by a state or federal agency;
  - b. investigations of abuse or neglect conducted by state child protection agencies;
  - c. a report of sexual misconduct referred to, or received by, the Center;
  - d. allegations of sexual or physical abuse or misconduct;
  - e. disregard for court-issued orders of protection or no-contact;
  - f. retaliation against a reporting party;
  - g. repeated violations of the Policy's Prevention Policies.
6. In non-emergencies, USA Gymnastics will notify the Adverse Party and the relevant Member Club, if appropriate, before issuing a public interim measure.

7. If the Adverse Party is a minor, then USA Gymnastics will contact the minor's parents or legal guardians.
8. Member Clubs must honor any Interim Measure imposed by USA Gymnastics, but they may impose any additional measures they deem necessary.

### B. Interim Measure Hearing Procedure

1. USA Gymnastics will notify the Adverse Party of a proposed Interim Measure before implementing the Interim Measure, except in emergency circumstances involving an imminent threat of harm, as described above.
2. A hearing for an Interim Measure decision will be held as soon as possible.
3. An Adverse Party may waive his or her right to an Interim Measure hearing by failing to respond in a timely manner or by agreement.
4. Failure to attend an Interim Measure hearing, or to cooperate with scheduling efforts, may be construed by the Hearing Panel as waiving the right to a hearing.
5. The procedures for the Interim Measure hearing shall be approved by the Hearing Panel before the hearing, and shall closely follow the Panel Guidelines of Article 10.11, with the following exceptions:
  - a. The 15-day notice period will not apply;
  - b. An Interim Measure Hearing Panel is not subject to the USOC athlete participant requirement.

### C. Interim Measure Hearing Panel Scope of Authority and Responsibility

1. The Hearing Panel will determine if reasonable cause exists to impose one or more Interim Measures.
2. The Hearing Panel may modify the original interim measure upon finding a lack of "reasonable cause."
3. Any modification must be supported by a finding of "reasonable cause" by the Hearing Panel.
4. "Reasonable cause" is a conclusion based on a fair and sensible assessment of the facts, and a finding that a fair and reasonable person would believe an Interim Measure is appropriate.
5. Interim Measures may only apply to the Adverse Party.
6. The Hearing Panel will provide USA Gymnastics with a written summary of the Panel's decision, specifically stating the Panel's "reasonable cause" determination and a statement of any Interim Measures supported by that finding and/or instituted by the Panel.